

MINUTES

MONTANA SENATE 57th LEGISLATURE - REGULAR SESSION SUBCOMMITTEE ON ENERGY AND TELECOMMUNICATIONS

Call to Order: By **VICE CHAIRMAN ROYAL JOHNSON**, on February 2, 2001 at 12:05 P.M., in Room 317B Capitol.

ROLL CALL

Members Present:

Sen. Mack Cole, Chairman (R)
Sen. Royal Johnson, Vice Chairman (R)
Sen. Don Ryan (D)
Sen. Tom Zook (R)

Members Excused: Sen. Steve Doherty (D)
Sen. Alvin Ellis Jr. (R)
Sen. Mike Halligan (D)
Sen. Bea McCarthy (D)
Sen. Walter McNutt (R)
Sen. Corey Stapleton (R)
Sen. Mike Taylor (R)

Members Absent: None.

Staff Present: Todd Everts, Legislative Branch
Misti Pilster, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Discussion on SB 243

Discussion:

Todd Everts explained that **amendment SB024301.ate** had passed previously. Those amendments affected other amendments in the bill. He stated the subcommittee also went through **amendment SB024305.ate** and passed paragraphs 2, 6, 7, 8, 9, and 12. The **SB024306.ate amendments** would make amendments **12-16** in **amendment SB024305.ate** and amendment **30** of **amendment SB024304.ate** obsolete if passed.

Motion: **SENATOR DON RYAN** moved that **AMENDMENT SB024306.ATE BE ADOPTED.**

Discussion:

Ken Morrison, PPL, stated the intent of this amendment was to create a more workable bill. He explained the first amendments of **amendment SB024306.ate** involved section 9 on page 15 of the original bill. The second amendment revised the process by which the bids would be reviewed by the Public Service Commission (PSC). A time frame would be given for the PSC to review the bids, which would be seven calendar days after the bids were presented by the default supplier. The PSC would then have those seven days to either reject or ask the default supplier to go back and work on the bids. Since the time of working on this matter, they had become aware of a concern about some short-term contracts given on a relatively short notice. **Mr. Morrison** told the committee if they went out to get a competitive bid and were required to wait seven days, that may go beyond the time they needed the power. There would need to be some additional time allowed in the time frame. If the PSC rejected the contracts, they would need to notify the default supplier. There would be certain sensitive information from the default supplier that would not be included in public documents.

Pat Corcoran, Montana Power Company, told the committee his company agreed with the information presented by **Mr. Morrison**. He stated the time frame of seven days was a concern in situations where action needed to be taken immediately. **Mr. Corcoran** requested the subcommittee check the language to assure the time frame issue would be adjusted accordingly and the two sections would be compatible. He said it was their intent to not be required to use competitive bids in the situations where some things needed to be done immediately.

SENATOR TOM ZOOK stated the word "may" was included in Section 7. **Pat Corcoran** explained it was a matter of review and a PSC approval issue in section 7.

Mr. Morrison added section 7 addressed a very short hourly notice issue. They were attempting to assure that the default supplier could immediately meet that need without going to the PSC to get permission.

Mr. Corcoran requested item number 2 be changed to say, "with the exception of number 7", everything else would retain the seven calendar days requirement process.

Mr. Morrison addressed item number 3 on page 16 of the original bill. He said the amendments would have criteria for the default supplier and the PSC to judge the bids and wished to eliminate

the words "just and reasonable" and replace those with "accrued".

Mr. Morrison stated he had some disagreements with item number 4. He explained the first item would indicate the rates would be adjusted annually.

Mr. Corcoran explained item 4 established the tracking mechanism for the contract on an annual basis. It would estimate the cost for the next period. He added to start this process, they would need to have rates effective on July 1, 2002. At the end of 2002, they would need to establish rates for the following year. The language would require them to submit the mechanism to the PSC to have it approved before March 30, 2002.

SENATOR ROYAL JOHNSON asked **Mr. Corcoran** if he could estimate the timing of the PSC's approval. **Mr. Corcoran** could not answer that.

SENATOR JOHNSON asked what the value of money over time referred to. **Mr. Corcoran** answered that it referred to during that time span, the customers rates would be fixed for the duration of the year. The actual costs could vary from what they would actually be recovering in rates. Therefore, if they would undercut the costs, the utility would carry the difference. **Mr. Corcoran** added that if they over-estimated the costs, the difference would be returned to the consumers in the next year.

SENATOR RYAN stated that when they referred to the mechanism, the total amount of the base load that was contracted out would be one of the things that would determine where the rates would be adjusted annually. He added the smaller that base load was and the more put in the variable areas, would give more flexibility in the mechanism. He asked **Mr. Corcoran** if that was correct. **Mr. Corcoran** responded that was correct, with adjustments made for both costs and load differences.

Mr. Morrison stated on pages 1 and 2 of the amendments was an area where they had resolved some issues, but a few still remained. He added this outlined how the general bid process would take place, how the default supplier would enter into contracts, introduced the portfolio concept, and provided requirements of power in megawatts that would be contracted for and approved by the PSC by March 1, 2002. The current bill does not contain any megawatt hours and does suggest that the contracts would have to be in place by June 30, 2002. **Mr. Morrison** explained the new language addressing the competitive process to be used. He also addressed the language dealing with the default supplier.

Mr. Corcoran wasn't comfortable with some of the proposed language.

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Mr. Morrison said the original bill required tying up all the power, and they had, therefore, worked on the change of language stated in the amendments. He explained this would not preclude PPL from seeking a power contract for five years. He realized the contract may not go to one supplier which would then be broken down into smaller power blocks of 25 or 50 megawatts.

Mr. Corcoran explained the default supplier's interests were to get the lowest possible price for the consumers. He told the committee if they were required to enter into a five year contract, that could jeopardize getting the lowest rate to the customers.

Mr. Morrison explained page 2, subsection 6. He said that section explained the process for acquiring the competitive bid and how those bids would be evaluated. He specified that the words "energy and services" should be more encompassing. He added the competitive bids would include the default suppliers, not the customers.

Mr. Morrison continued by explaining section 7. He said if the default supplier's load shifted immediately, they would be able to adjust the load without going through the competitive bid process according to this section. The word "may" was used to allow the default supplier the choice of whether or not to use competitive bids in that situation. It was suggested to put in the words "when procuring electricity supplies to meet power hourly load fluctuations for balancing and reliability." **Mr. Corcoran** replied he felt that language was too narrow.

SENATOR ZOOK asked if they were referring to load following the peak. **Mr. Corcoran** explained they were referring to following the load, with many fluctuations taken into account. **SENATOR ZOOK** asked why the language would not allow them to never entertain competitive bids. **Mr. Corcoran** answered with the new language, there would be choice.

Mr. Morrison told the committee the purpose of section 8 was to describe how the default supplier would evaluate the bids they received. The criteria would be: the prevailing market price of the commodity determined by the bid process; the firmness and reliability of the supply and service; the delivery cost of the supply; and the supplier's credit record.

Susan Good, PSC, told the committee, perhaps, they should use the language "not limited to" in case something else would enter in at a later time.

SENATOR RYAN asked **Ms. Good** to give an example of what other things she thought may come up at a later time. **Ms. Good** replied she could not give a particular example. She added it could include the fluctuations discussed earlier as well as other issues. She cautioned against getting too descriptive because that would restrict them in the future from taking those future issues into account.

SENATOR MACK COLE told **Ms. Good** he didn't want this issue to be too broad, however. **Ms. Good** agreed.

Mr. Corcoran stated that with regard to the original PPL amendments, he was comfortable with the language used. He explained they were attempting to be quite specific to deal with the competitive bid process.

Jerome Anderson, PPL, noted that the resolution of the issues dealt with in the amendments needed to be taken care of within a confined period of time or the bid sitting on the table would be lost. He added there needed to be some specific limitations included with regard to the bids.

SENATOR JOHNSON told the committee they would recess and meet again later in the day to finish the discussion and to carry the motion forth to adopt the amendments.

{Tape : 1; Side : B; Approx. Time Counter : 20.5}

ADJOURNMENT

Adjournment: 12:55 P.M.

SEN. MACK COLE, Chairman

MISTI PILSTER, Secretary

MC/MP